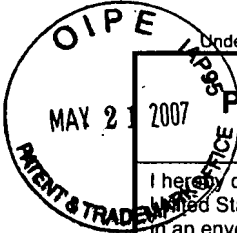


Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

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Signature _____

Typed or printed name Cheri Clinkenbeard

Application Number

10/038,142

Filed

10/22/01

First Named Inventor

Tabatabai, et al.

Art Unit

2144

Examiner

G. Bengzon

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. 37,850
Registration number _____

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Signature

Sheryl Sue Holloway

Typed or printed name

(408)720-8300

Telephone number

MAY 18, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of one forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Examiner: Bengzon, Greg C.
Tabatabai, et al.)
) Art Unit: 2144
)
Application No. 10/038,142) Confirmation No.: 2144
)
Filed: October 22, 2001)
)
For: DELIVERY OF MULTIMEDIA)
DESCRIPTORS USING)
ACCESS UNITS)
_____)

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the final Office Action mailed February 21, 2007, Applicant respectfully requests review of the Examiner's rejection of claims 1-90.

Rejections To Be Reviewed

Rejections under 35 U.S.C. 112

Claims 1-90 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite.

Summary of Claimed Subject Matter

Applicant's invention as claimed in claims 1-90 uses access units to deliver updates for a multimedia description from an encoder to a decoder. The multimedia description is divided into fragments and an access unit corresponds to one of the fragments. The access unit comprises a fragment update, which in turn comprises a fragment update command. The encoder generates the access units from a multimedia

description at the encoder. The access units are subsequently transmitted to the decoder, which executes the fragment update commands to reconstruct the multimedia description. [Specification: paragraphs 27-29 on pages 8-9; paragraphs 36-39 on pages 11-12 and Figures 2-4].

Summary of Prosecution History

The Examiner first rejected claims 1-90 under § 112 in a non-final Office Action mailed September 18, 2006, asserting that the terms “access unit” and “fragment update command” were undefined. In a response mailed December 18, 2006, Applicant amended the independent claims to add definitions for the terms in accordance with Applicant’s specification. As stated in the December 18 response, Applicant made the amendments even though the Examiner should have interpreted the claims in light of the definitions for the terms set forth in the specification. Applicant also cited paragraphs 28, 37 and 38 of the specification as support for the definitions. The Examiner again rejected claims 1-90 in a final Office Action mailed February 21, 2007, asserting that “any special meaning assigned to a term must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention.” The Examiner then rejected claims 1-90 under 35 U.S.C. § 103 using a definition of the term “access unit” that is different from the definition set forth in the claims.

Argument

In paragraphs 28-29 of Applicant’s specification, Applicant describes an access unit as a unit for transmitting a part (or fragment) of a description from an encoder to a decoder through a communication channel. In paragraphs 36-38, Applicant describes embodiments of the structure of an access unit, and illustrates an exemplary data structure in Figures 3 and 4. In paragraph 38, Applicant states that an update command in an access unit specifies the type of update to execute at a node in a description to add, delete or replace a fragment in the description. Applicant respectfully submits that one of ordinary skill in the data processing arts would understand the meanings of the terms “access unit” and “fragment update command” from Applicant’s specification and

drawings. Thus, the terms cannot be properly interpreted as indefinite under § 112, second paragraph.

Furthermore, pending claims 1-90 define the term “access unit” as a network transmission data structure, and the term “fragment update command” as specifying a type of command for execution by a decoder to update the multimedia description. Applicant respectfully submits that one of ordinary skill would readily understand the meaning of the terms based on the definitions set forth in the claims, and that the definitions are consistent with the specification and drawings. Thus, claims 1-90 cannot be properly rejected under § 112, second paragraph as being indefinite.

Conclusion

Because there are clear errors in the Examiner's rejection, Applicant respectfully requests the Pre-Appeal Conference direct the Examiner to withdraw the rejection of claims 1-90 under 35 U.S.C. § 112, second paragraph. In addition, because of the erroneous § 112 rejection, the Examiner rejected claims 1-90 under 35 U.S.C. § 103 using an incorrect interpretation of the claims. Therefore, Applicant further respectfully requests the Pre-Appeal Conference direct the Examiner to reconsider the § 103 rejection in accordance with the definition of the term “access unit” set forth in the claims.

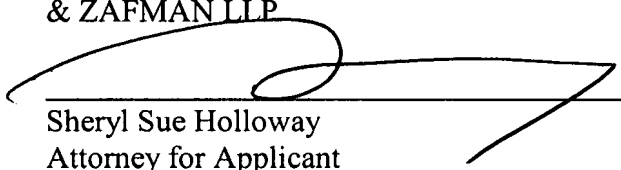
Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: May 18, 2007



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